

1:13 pm, Apr 14, 2020

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 10-CR-00464 (ADS)  
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:  
v. : Central Islip, New York  
:  
DANIEL SCHWARZ, : August 27, 2019  
:  
Defendant. :  
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TRANSCRIPT OF CRIMINAL CAUSE FOR GUILTY PLEA  
BEFORE THE HONORABLE ARLENE R. LINDSAY  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ALLEN LEE BODE, ESQ.  
U.S. Attorneys Office, EDNY  
610 Federal Plaza  
Central Islip, New York 11722

For the Defendant: TRACEY GAFFEY, ESQ.  
Federal Defenders of New York  
770 Federal Plaza  
Central Islip, New York 11722

Court Transcriber: RUTH ANN HAGER, C.E.T.\*\*D-641  
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Proceedings recorded by electronic sound recording, transcript  
produced by transcription service.

1 (Proceedings began at 2:17 p.m.)

2 THE CLERK: Calling 2:10-CR-00464, the United States  
3 of America v. Daniel Schwarz.

4 Please state your appearances.

5 MR. BODE: Allen Bode for the Government, Your  
6 Honor. I'd also note the presence of Ana Gonzalez [ph.] from  
7 the Probation Department. Good afternoon.

8 THE COURT: Good afternoon.

9 MS. GAFFEY: And good afternoon, Your Honor. Tracey  
10 Gaffey, Federal Defenders, for Daniel Schwarz.

11 THE COURT: All right. Ms. Gaffey, have you  
12 reviewed with Mr. Schwarz the specific violation charges that  
13 have been lodged against him? There appear to be a total of  
14 five charges of violation of supervised release.

15 MS. GAFFEY: Yes, I have, Your Honor.

16 THE COURT: All right. And are you satisfied from  
17 the stance of what the exact charges are?

18 MS. GAFFEY: I am.

19 THE COURT: And do you waive the public reading of  
20 these charges?

21 MS. GAFFEY: So waive and he enters pleas of not  
22 guilty to the violations.

23 THE COURT: Okay. All right. So let me hear from  
24 the Government on the question of bail.

25 MR. BODE: I'll be very briefly, Your Honor --

1 brief, Your Honor. We would ask that the defendant be  
2 detained pending the next date before Judge Spatt which is  
3 December 6th at 11:00 a.m., I believe.

4           Mr. Schwarz absconded from supervision. He in  
5 addition has committed the new crime of failing to register as  
6 a sex offender by absconding because he's absconded for a good  
7 40 days or so. NYPD detectives are here today. Were he to be  
8 released, they would arrest him for that stay violation. But  
9 because he did abscond, because he knew that, he -- it  
10 wasn't an accident. He knew that he was leaving. He spoke  
11 with Probation on the phone following his initial leaving of  
12 the halfway house. They told him to come back. He did not.  
13 When he was arrested this morning, his first question to  
14 Marshals was "How did you find me?" so he knew he was gone and  
15 gone on purpose.

16           For all those reasons, we ask that he be held until  
17 he faces Judge Spatt.

18           MS. GAFFEY: Your Honor, as we don't have a bail  
19 application to make today, we'll reserve our bail application  
20 for Judge Spatt.

21           THE COURT: All right. I have reviewed the  
22 violation charges and it is clear to the defendant as charged  
23 just he's not complied with the provisions of his supervised  
24 release or at least those are the allegations that appear to  
25 be the circumstances here.

1           So I'm not going to release him. I'll detain him  
2 until he appears before Judge Spatt. That date -- do we have  
3 the right date?

4           THE CLERK: The 6th, Your Honor, at 11 a.m.

5           THE COURT: All right. So September 6th at 11:00  
6 a.m. and of course, Ms. Gaffey, at that time you may present a  
7 bail application.

8           All right. Is there anything else with respect to  
9 this defendant that I have to redress?

10          MR. BODE: Not on behalf of Government, Your Honor.

11          MS. GAFFEY: May I just have a moment, Your Honor?

12          THE COURT: Sure.

13                       [Pause in the proceedings.]

14          MS. GAFFEY: Your Honor, there was some property  
15 taken from Mr. Schwarz. I would just inquire, is that going  
16 to be held?

17          MR. BODE: So there's a phone and a wallet. If  
18 Ms. Gaffey wants to hold those items, she can let us know or  
19 let the Marshal know; otherwise, the Marshals will just retain  
20 it until such time as the defendant can be released.

21          MS. GAFFEY: I'd ask if the Marshals would retain  
22 that until further notice. I will speak with them.

23          THE CLERK: All right.

24          MS. GAFFEY: As to disposition.

25          THE COURT: The Marshals or Pretrial Services?

1 MR. BODE: Good question.

2 THE COURT: I can't imagine --

3 MS. GAFFEY: Probation doesn't have it. I mean --

4 MR. BODE: Yeah, so the Marshals have it at this  
5 time, Your Honor. The Marshal Service will speak to  
6 Ms. Gaffey, the probation officer who's assigned and/or  
7 Pretrial, and one of those three will retain it if the  
8 Marshals don't.

9 THE COURT: All right. I can't imagine the Marshals  
10 want to keep it but, you know, let them work it out and then  
11 just have a final [indiscernible] where it is.

12 MR. BODE: Yes, Your Honor.

13 MS. GAFFEY: Thank you very much, Your Honor.

14 THE COURT: All right. Thank you.

15 (Proceedings concluded at 2:22 p.m.)

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1 I certify that the foregoing is a court transcript  
2 from an electronic sound recording of the proceedings in the  
3 above-entitled matter.

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7 Ruth Ann Hager, C.E.T.\*\*D-641

8 Dated: April 13, 2020  
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